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Oceans and the law of the sea

Letter dated 6 December 2012 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General

Upon instructions from my Government, I have the honour to transmit herewith the report on the implementation by Viet Nam of the 1982 United Nations Convention on the Law of the Sea as a responsible party to the Convention, on the occasion of the commemoration of the thirtieth anniversary of its opening for signature (see annex).

I should be grateful if you would have the present letter and the annex thereto circulated as an official document of the sixty-seventh session of the General Assembly, under agenda item 75 (a).

(*Signed*) **Le** Hoai Trung
Ambassador Extraordinary and Plenipotentiary
Permanent Representative

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Annex to the letter dated 6 December 2012 from the Permanent Representative of Viet Nam to the United Nations addressed to the Secretary-General

Report on the implementation by Viet Nam of the 1982 United Nations Convention on the Law of the Sea as a responsible party to the Convention

The United Nations Convention on the Law of the Sea was signed by 107 countries 30 years ago in Montego Bay, Jamaica, marking an enormous success of the third United Nations Conference on the Law of the Sea. The adoption of the Convention fulfilled the desire and expectations of the international community for a fair international legal framework related to all issues on the sea and the oceans, including the seabed and the subsoil of submarine areas. The process of negotiating the Convention took years to be concluded through the efforts of over 150 States and international organizations, including non-governmental organizations. To date, 164 States are parties to the Convention. The Convention not only sets out the rights and obligations of coastal countries, but also ensures the rights of landlocked countries to access to the sea and the oceans. That is why the Convention has been accepted by such a large number of States, including landlocked ones. The Convention laid the foundation for the establishment of a new legal order for issues related to the sea and the oceans. The content of the Convention comprehensively covers all sea-related areas, taking into account the interests of all States in the world, be they developed or developing, large or small, coastal or landlocked.

Since its entry into force on 16 November 1994, the United Nations Convention on the Law of the Sea has become an important legal basis for regulating maritime issues as well as an important legal instrument for settling and dealing with sea-related disputes. That is why the Convention is considered to be the "Constitution for the oceans". Throughout its 30 years of existence, the Convention has been applied in a rather effective manner in settling prolonged complex disputes and has helped to avoid potential conflicts.

As a country with 3,260 km of coastline, Viet Nam has a significant interest in the sea. Aware of the importance of the sea, Viet Nam actively participated in the process of negotiating the United Nations Convention on the Law of the Sea and has made considerable efforts in implementing the Convention. It always upholds the purposes and objectives of the Convention.

Before the adoption of the United Nations Convention on the Law of the Sea, Viet Nam actively applied relevant provisions of international law to develop its legislative documents relating to the sea. In conformity with the progressive trend of international maritime law, Viet Nam promulgated its Declaration on the Territorial Sea, Contiguous Zone, Exclusive Economic Zone and Continental Shelf in 1977, establishing an exclusive economic zone of 200 nautical miles and extending the rights of Viet Nam to the sea to include not only fishing rights, but also other sovereign rights and jurisdiction. With this Declaration, Viet Nam, Kenya, Myanmar, Cuba, Yemen, Dominique, Guatemala, India, Pakistan, Mexico and Seychelles were considered to be the pioneering States in developing the concept of the exclusive economic zone into a source of customary law, which later became an important institution of the Convention.

Viet Nam actively and constructively participated in the third United Nations Conference on the Law of the Sea, held in Montego Bay, Jamaica. Right after the United Nations Convention on the Law of the Sea was adopted, Viet Nam was among the 107 States that signed the Convention on 30 April 1982. Prior to its entry into force, the National Assembly of Viet Nam ratified this crucial legal document on 23 June 1994. Paragraph 1 of the ratification resolution made it clear that the Socialist Republic of Viet Nam, by ratifying the United Nations Convention on the Law of the Sea, expressed its determination to join the international community in the establishment of an equitable legal order and in the promotion of maritime development and cooperation.

The ratification resolution reaffirmed the sovereignty of the Socialist Republic of Viet Nam over its internal waters, territorial sea, sovereign rights and jurisdiction over the contiguous zone, exclusive economic zone and continental shelf on the basis of the provisions of the United Nations Convention on the Law of the Sea and principles of international law, and called upon other countries to respect the above-mentioned rights of Viet Nam. The resolution also reaffirmed Viet Nam's policy of settling disputes over territorial sovereignty and other disagreements related to the East Sea (South China Sea) through peaceful negotiations in the spirit of equality, mutual understanding and respect, with due respect for international law, particularly the Convention, and respect for the sovereign rights and jurisdiction of coastal States over its exclusive economic zone and continental shelf in accordance with the principles of the Convention.

Viet Nam has applied provisions of the United Nations Convention on the Law of the Sea to the step-by-step completion of its legal system in order to create the legal framework for the management of the sea and maritime economic activities, to facilitate the process of international integration and to enhance cooperation with other countries for the maintenance and promotion of peace and stability in the region and the world. On 21 June 2012, the National Assembly of Viet Nam adopted the Law of the Sea of Viet Nam, which was developed on the basis of the provisions of the Convention, with references to international and State practice. The Law of the Sea of Viet Nam includes seven chapters with 55 articles, covering principles of the management and use of the sea, the scope and regime of internal waters, the territorial sea, the contiguous zone, the exclusive economic zone, the continental shelf, the regime of islands, archipelagos, activities in the Vietnamese sea areas, search and rescue, the protection of marine resources and environment, marine scientific research, the development of the maritime economy, sea patrol and control and maritime international cooperation. By adopting its Law of the Sea, Viet Nam harmonized its sea-related laws with the provisions of the Convention. The reiteration in the Law of the Sea of Viet Nam of the policy of settling sea and insular disputes through peaceful means on the basis of international law and the Convention is a testament to the fact that Viet Nam is a responsible member of the international community that respects and complies with international law, including the Convention, and to its resolve to strive for peace, stability, cooperation and development in the region and the world.

Before the adoption of the national Law of the Sea, on 14 June 2005, the National Assembly of Viet Nam adopted the amended Maritime Code of Viet Nam, which entered into force on 1 January 2006, governing maritime navigation and entry into and departure from Vietnamese seaports. In addition, Viet Nam adopted a number of other laws related to the management and use of the sea, such as the

Petroleum Law (1993), the Law on Water Resources (1998), the Law on Environmental Protection (1993), the Law on National Border (2003), the Fishery Law (2004) and a number of ordinances and decrees.

Pursuant to the provisions of the United Nations Convention on the Law of the Sea, Viet Nam has been effectively carrying out the management and implementation of maritime economic activities in its exclusive economic zone and continental shelf for the development of the national economy and the improvements of its people's living conditions. The Government of Viet Nam always provides sufficient protection of the lawful and legitimate rights and interests of foreign actors in economic cooperation, management and exploitation with regard to maritime natural resources in conformity with the provisions of the Convention. Viet Nam has been proactively working with parties concerned in the protection of the marine environment, search and rescue at sea, natural disaster prevention and relief, and preventing and combating crimes at sea, particularly piracy, which contribute to the full implementation of the provisions of the Convention.

The Government of Viet Nam always attaches importance to the protection of natural resources and the marine environment, which is regulated by provisions of relevant legal documents related to different areas of shipping, oil and gas, aqua farming and processing, and sea control and patrol. Viet Nam has proposed various initiatives on the sustainable exploitation of natural resources of the sea and the oceans, environmental protection and response to sea-level rise.

Aware of the obligation of coastal States under the United Nations Convention on the Law of the Sea, Viet Nam established the National Committee on Search and Rescue with Decision No. 780/TTg of the Prime Minister, dated 23 October 1996. The Committee is responsible for instructing and implementing search and rescue activities for people and vehicles (airplanes, ships, oil and gas facilities, etc.) in distress in the air, at sea and in the contiguous areas between Viet Nam and other countries. Viet Nam has become a member of the International Convention on Maritime Search and Rescue and will soon start negotiations with countries concerned on the division of the areas for search and rescue at sea.

On the basis of the consistent policy of settling sea-related disputes through peaceful means, Viet Nam has made significant efforts in effectively applying the United Nations Convention on the Law of the Sea to settle disputes with neighbouring countries related to maritime delimitation in accordance with the principle of equity, in order to reach an acceptable solution. Viet Nam signed an agreement with Thailand on maritime delimitation on 9 August 1997; an agreement with China on the delimitation of the Gulf of Tonkin and on fishery cooperation on 25 December 2000; and an agreement with Indonesia on the delimitation of the continental shelf on 26 June 2003. Viet Nam is currently conducting negotiations with China for the delimitation of the area outside the mouth of the Gulf of Tonkin and negotiations with Indonesia for the delimitation of an exclusive economic zone, and will negotiate sea-related issues with other neighbouring countries. Viet Nam's practice of negotiating and concluding several agreements on maritime delimitation with its neighbouring States represented the creative application of the provisions of the Convention and helped enrich international practice in maritime delimitation. The results of negotiations for delimitation between Viet Nam, Thailand and China helped reaffirm the undeniable trend of using the method of setting a medium line or

equidistance line as the starting point for an equitable solution and the trend of using a single delimitation line for both the exclusive economic zone and the continental shelf.

On the other hand, Viet Nam has always made efforts to act in conformity with international law, including the United Nations Convention on the Law of the Sea. In this spirit, in all discussions and exchanges of views on territorial and maritime disputes related to the East Sea, Viet Nam firmly supports the principle of respect for international law, including the Convention, which is viewed as a primary principle for settling and dealing with insular and maritime disputes. Viet Nam has managed to incorporate this principle into the documents of the Association of Southeast Asian Nations (ASEAN), including the Declaration on the Conduct of Parties in the South China Sea and the Six-Point Principles on the South China Sea of 20 July 2012. With Viet Nam's efforts, the principle of seeking, on the basis of international law, including the Convention, a long-term fundamental solution to disputes in the South China Sea has been incorporated into the Agreement on Basic Principles Guiding the Settlement of Maritime Issues between Viet Nam and China, signed on 11 October 2011. This testifies to the fact that Viet Nam not only strictly observes the provisions of the United Nations Convention on the Law of the Sea, but also promotes respect for and the full implementation of the contents of the Convention.

As recommended in articles 74 and 83 of the United Nations Convention on the Law of the Sea, Viet Nam is always prepared to carry out joint development cooperation with relevant parties in disputed areas in accordance with the provisions of the Convention. In 1992, Viet Nam signed, with Malaysia, a memorandum of understanding for cooperation in exploration for and exploitation of petroleum in a defined area of the continental shelf involving the two countries, which has been effectively implemented. Viet Nam is currently engaged in negotiations with Thailand and Malaysia on cooperation regarding the Viet Nam-Thailand-Malaysia Tripartite Overlapping Continental Shelf Claim Area.

Exercising the rights and obligations of coastal States under the United Nations Convention on the Law of the Sea after nearly three years of arduous efforts (from 2007 to 2009), Viet Nam has completed a quality submission on the continental shelf beyond 200 nautical miles with scientific and legal evidence for delineating its extended continental shelf in accordance with the guidelines of the Commission on the Limits of the Continental Shelf. In early May 2009, Viet Nam submitted to the United Nations its submission on the limits of the continental shelf beyond 200 nautical miles in the northern part of the East Sea and its joint submission with Malaysia on the limits of the continental shelf in the southern part of the East Sea. On 27 and 28 August 2009, Viet Nam presented the two submissions at the Commission on the Limits of the Continental Shelf and called upon the Commission to establish, at an early date, subcommissions to consider the submissions in accordance with the provisions of the Convention as well as the rules of procedure of the Commission. These undertakings reaffirmed Viet Nam's determination to observe the Convention.

Viet Nam has been participating proactively in activities under the auspices of international bodies established under the United Nations Convention on the Law of the Sea. Viet Nam is a member of the Council of the International Seabed Authority and was elected Vice-President of the Assembly of the Authority. Viet Nam has

participated in all meetings of State parties to the Convention held annually at the United Nations and made positive contributions to promoting the effective implementation of the Convention. Viet Nam has also participated in and made positive contributions to meetings of the International Seabed Authority highlighting the role of the Convention. Viet Nam has supported the enhanced activities of the Commission on the Limits of the Continental Shelf and the judicial function of the International Tribunal for the Law of the Sea and has made annual financial contributions for the operation of bodies established under the Convention. In the related forums, Viet Nam has consistently stated that countries carrying out maritime activities must strictly abide by and fully implement the provisions, rights and obligations enshrined in the Convention. Viet Nam has, on an annual basis, proactively engaged in discussions on and supported the adoption of the resolutions of the United Nations General Assembly on the oceans and the law of the sea and on sustainable fisheries, as well as the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea.

In addition, Viet Nam participated in the formulation of various international and regional legal documents related to the sea, including the Convention on the International Maritime Satellite Organization (INMARSAT) and the Global Maritime Distress and Safety System. The country has established a system of coastal information stations to maintain communication with and among fishing boats. Inspection of vessels at seaports is always conducted in accordance with regional agreements on governmental inspection at ports. Viet Nam has joined the International Maritime Organization and other instruments under its umbrella, including the 1973 International Convention for the Prevention of Pollution from Ships and the 1978 supplemental Protocol relating thereto, the 1969 International Convention on Tonnage Measurement of Ships, the 1972 International Regulations for Preventing Collisions at Sea, the 1974 International Convention for the Safety of Life at Sea, the 1966 International Convention on Load Lines, the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, the 1992 International Convention on Civil Liability for Oil Pollution Damage (Viet Nam ratified the Convention on 1 July 2003, and the Convention entered into force for Viet Nam on 1 July 2004), the 1965 Convention on Facilitation of International Maritime Traffic and the 1979 International Convention on Maritime Search and Rescue.

Viet Nam has signed a number of ASEAN agreements related to shipping and maritime services, including the Agreement for the Facilitation of Search of Ships in Distress and Rescue of Survivors of Ship Accidents, signed on 15 May 1975; the ASEAN Framework Agreement on the Facilitation of Goods in Transit, signed on 16 December 1998; the General Agreement on Trade in Services (GATS), signed December 1995; and the ASEAN Framework Agreement on the Facilitation of Inter-State Transport, signed on 10 December 2009.

Viet Nam's accession to sea-related international and regional legal documents reflects the commitment of the Government of Viet Nam to the full observation of the provisions of the United Nations Convention on the Law of the Sea.

In summary, over the past 30 years, the United Nations Convention on the I aw of the Sea has provided a solid international legal basis for defining the rights and obligations of coastal States and for settling issues related to the sea and the oceans, including sea disputes. As a coastal State, Viet Nam has always taken an active role and made continuous efforts in observing and implementing the Convention. Viet Nam is of the view that the full implementation by all State parties of the rights and duties enshrined in the Convention will help humankind not only avoid tensions and disputes on the sea, but also better utilize sea and ocean resources for human benefits.

Viet Nam has fully abided by and will continue to act in accordance with the purposes, objectives and provisions of the United Nations Convention on the Law of the Sea, and urges other countries to take the same course of action.